

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

BLUESTONE COAL CORPORATION,

Plaintiff,

v.

CIVIL ACTION NO. 1:07-00549

CNX LAND RESOURCES, INC.,  
and CONSOL ENERGY, INC.,

Defendants.

**MEMORANDUM OPINION AND JUDGMENT ORDER**

Pending before the court is defendants' motion to dismiss Count II of plaintiff's complaint (doc. # 217). For the reasons expressed in the court's Memorandum Opinion and Order of November 16, 2007 (doc. # 31), and the Memorandum Opinion and Order of December 13, 2007 (doc. # 45), the motion is GRANTED.

The Clerk is directed to send copies of this Memorandum Opinion and Judgment Order to all counsel of record.

**IT IS SO ORDERED** this 23rd day of June, 2009.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge